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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

December 3, 1999

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

96-262

**Re: *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45
Comments of Western Wireless Corporation on the CALLS Proposal**

Dear Ms. Salas:

On behalf of Western Wireless Corporation ("Western Wireless"), I am enclosing for filing an original and four copies of Western Wireless' Comments in the referenced proceeding.

If you have any questions regarding this matter, please contact me.

Respectfully submitted,

Ronnie London
Counsel for Western Wireless Corp.

Enclosures

No. of Copies rec'd 044
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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

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DEC 3 1999

**FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of)	
)	
Access Charge Reform)	CC Docket No. 96-262
)	
Price Cap Performance Review for Local Exchange Carriers)	CC Docket No. 94-1
)	
Low-Volume Long Distance Users)	CC Docket No. 99-249
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	

**WESTERN WIRELESS CORPORATION
REPLY COMMENTS ON THE CALLS PROPOSAL**

Western Wireless Corporation ("Western Wireless"), by its attorneys, hereby responds to the Notice of Proposed Rulemaking and comments addressing the proposal submitted by the Coalition for Affordable Local and Long Distance Services ("CALLS") to reform interstate universal service and access charges for price cap incumbent local exchange carriers ("ILECs"). ^{1/} Western Wireless is a commercial mobile radio service ("CMRS") carrier with service areas primarily in high-cost and rural areas of the western states. Western Wireless has recently introduced a wireless local loop ("WLL") service that is a competitive alternative to ILEC offerings.

^{1/} *Access Charge Reform; Price Cap Performance Review for Local Exchange Carriers; Low-Volume Long Distance Users; Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-262, 94-1, 99-249 and 96-45, Notice of Proposed Rulemaking, FCC 99-235 (rel. Sept. 15, 1999) ("NPRM").

INTRODUCTION

To enable prospective entrants such as Western Wireless to provide competitive local service to consumers in high-cost and rural areas, the FCC must reform its universal service policies to eliminate implicit subsidies and make all support explicit and portable. The Commission has made progress in this direction in its recent decision reforming the high-cost universal service support system for areas served by non-rural carriers. The time has come for the Commission to address the implicit subsidies embedded in interstate access charges.

Western Wireless generally supports the CALLS proposal, though imperfect, as another step towards opening local telecommunications markets to competition. ^{2/} Western Wireless' efforts to enter local markets in rural areas have been hampered by two key regulatory hurdles (in addition to the inherent business risks that such a venture entails). First, explicit universal service subsidies, until recently, have been unavailable to competitive entrants to the local market, and remain out of reach to the extent that prospective entrants cannot readily receive designation as eligible telecommunications carriers ("ETCs"). Second, only ILECs, and not competitive CMRS entrants, receive most implicit subsidies. The most

^{2/} This is a perspective shared by a variety of commenters. *See, e.g.*, Competitive Telecommunications Association at 4 ("While CompTel strongly urges the Commission to correct [] flaws in the CALLS plan, should the Commission decline to do so at this time, CompTel supports adopting CALLS' restructuring proposal as a significant improvement[.]"); *accord* Time Warner Telecom at 1-2 (stating that "several aspects of the CALLS Proposal make good sense" but maintaining ILEC revenue neutrality and increasing the size of the universal service fund are problems); Cable & Wireless USA, Inc. at 2 ("In the absence of better alternatives that the Commission is willing to implement, C&W USA supports adoption of the CALLS proposal with certain modifications.").

egregious of these is non-cost-based access charges. The CALLS plan represents the most promising immediate vehicle for addressing this problem. The Commission should take care, however, not to backtrack on its commitment to set universal service support based on forward-looking economic cost.

I. THE CALLS PLAN PROMOTES COMPETITION AND ADVANCES THE PUBLIC INTEREST IN MOST RESPECTS

By making explicit federal universal service subsidies available to all eligible providers, including wireless carriers, and by endeavoring to construct a federal universal service program based on forward-looking costs, the FCC has done much to enable competitive entry in high-cost local markets. The FCC's goal of reforming access charges to remove additional implicit subsidies will also, once achieved, greatly improve the ability of new entrants to compete with ILECs in local telecommunications markets. But true competition cannot even begin until the current system, in which incumbent carriers offer subsidized prices to their customers while prospective competitors are forced to offer unsubsidized service, is reformed. It is for this reason that the Act requires the FCC to remove implicit subsidies from the rates charged for telecommunications service, and to make any necessary subsidies explicit, predictable and portable. 3/

The CALLS proposal drives regulation of telephone service toward this ideal in three critical ways: (1) the plan eliminates many implicit subsidies and makes most remaining subsidies explicit and portable; (2) the plan greatly

3/ *Texas Office of Pub. Util. Counsel v. FCC*, 183 F.3d 393, 406 (5th Cir. 1999).

diminishes geographic averaging; and (3) the plan places the costs of providing service on the end-user triggering the costs. We discuss below the importance of each of these elements of the CALLS plan.

A. The CALLS Plan Will Benefit Consumers by Eliminating Most Anti-Competitive Implicit Subsidies

The CALLS proposal would eliminate a significant amount of the implicit subsidies in the interstate rate structure by slashing non-cost-based access charges to a level approaching costs. This makes it possible for carriers that do not receive access charges, like CMRS providers, to compete with ILECs on a more level playing field. This is vitally important to new entrants seeking to compete for local customers, particularly wireless carriers that, at present, are barred from collecting tariffed access charges to recoup the costs of local service offerings. No carrier can enter a market offering a service that is priced based on the cost of providing the service, while subsidized carriers already in the market are offering a similar or identical service at or below what it costs to provide the service. ^{4/} For example, in Minnesota, Western Wireless was recently designated as an ETC in certain wire centers served by U S WEST Communications, Inc. ("U S WEST"), as well as in certain study areas served by rural telephone companies. In the rural community of Mahnomen, the cost of providing service has been calculated, using the HAI 5.0a cost model, at \$105.43 per month per line. Yet, because U S WEST is able to subsidize this cost through inflated access charges and geographic averaging,

^{4/} See Association of Local Telecommunications Services at 7.

U S WEST is able to price its services below costs, while competitive carriers lacking the ability to collect inflated access charges and to average costs over a large geographic area are at a significant competitive disadvantage. The CALLS plan does a great deal to remedy this problem. ^{5/}

B. The Geographic Deaveraging in the CALLS Plan Helps Remove Another Source of Implicit Subsidy

The CALLS proposal also aids competitive entry by reducing geographic averaging – another form of implicit subsidy – present in the subscriber line charge ("SLC"). By taking this step, the CALLS proposal allows the prices charged for local telecommunications in particular geographic areas to more directly reflect the cost of providing the services in those areas. This is a crucial step for the advent of competition, particularly in high-cost and rural areas. If high-cost and rural area local rates are kept artificially low by ILECs charging below-cost prices, new entrants seeking to enter rural and high-cost areas will be discouraged from doing so. The CALLS proposal helps remove the incentives driving these inappropriate economic behaviors.

C. The CALLS Plan Would Make End User Rates More Accurately Reflect the Cost of Service

The CALLS proposal promotes local competition and benefits consumers by allowing SLCs to increase to recover a greater share of non-traffic-sensitive costs directly from end users. Contrary to the colorful accusations levied

^{5/} See MCI WorldCom at 2 ("most obvious benefit of the plan is [driving] switched access charges much closer to forward-looking economic cost").

by certain commenters, the CALLS proposal is not an attempt to "tax the guy behind the tree." 6/ In fact, the CALLS proposal is not an attempt to tax *anyone*. It merely provides for shifting to a cost-based universal system. For years – decades, in fact – low-volume telephone users have paid below-cost rates for local telephone service. 7/ These rates were supported by the implicit subsidies, borne largely by high-volume long distance users, that are anathema to local competition. This is why the Act directs the FCC to remove such subsidies, and it is why the CALLS proposal is such a positive step.

Before consumers can benefit from competition for local telephone service, as they now enjoy for long distance, competitors must be able to enter the market. But competitors cannot enter the market if incumbents are permitted to maintain artificially low rates due to implicit subsidies not available to new entrants. 8/ Thus, despite opposition by some commenters, 9/ some realignment is

6/ Texas Office of Public Utility Counsel et al. at iv; *accord* Public Utilities Commission of Ohio at 17.

7/ For example, in Minnesota, Redwood County Telephone Company charges a rate of \$5.70 per month for local telephone service, while the average cost of service is more than \$70.00 per month. Clearly the price charged for local telephone service does not reflect the cost of service or the value of telephone service.

8/ MCI WorldCom at 5-6.

9/ See, e.g., Competition Policy Institute at 1 (arguing that "disadvantages" of CALLS plan, such as higher monthly fixed charges and shifting costs from IXCs to end-users, outweigh the proposal's benefits of lower access prices leading to reductions in long distance rates and universal service support more appropriate to competitive markets).

necessary so that the costs paid by customers more accurately reflect the costs of providing service. This is where the CALLS plan would lead.

II. THE COMMISSION SHOULD ENSURE THAT ANY NEW EXPLICIT UNIVERSAL SERVICE FUND IS PORTABLE AND BASED ON FORWARD-LOOKING COSTS

Western Wireless is concerned about one aspect of the CALLS plan – the proposal to establish a new, \$650 million “interstate access-related” universal service fund. Of course, Western Wireless strongly supports the proposal to make this fund portable and available to competitive entrants on a geographically disaggregated basis. Creation of an explicit, portable source of funding would be a clear advance over the current funding system, which is implicit and largely unavailable to certain competitive entrants.

Nonetheless, Western Wireless is concerned that the proposed new \$650 million fund appears not to be based on forward-looking costs. Rather, it appears to be based on the difference between the ILECs’ current loop revenues and arbitrarily selected caps on the residential subscriber line charge -- a methodology rooted primarily in *historical costs*. ^{10/} This is flatly inconsistent with the Commission’s stated commitment to universal service support mechanisms that are as economically efficient as possible and based on forward-looking costs.

^{10/} The Coalition’s formulas defining the fund demonstrate that the proposed amount of funding is derived based on existing ILEC revenue levels. See Letter from John Nakahata, Counsel to CALLS, to Magalie Roman Salas, Secretary, FCC (Aug. 20, 1999), App. A at 3, 10-11.

Moreover, there may be more effective and efficient ways to promote local competition and universal service rather than adding \$650 million to the fund. This proposed new fund ostensibly would subsidize residential SLCs that, in the absence of this subsidy would exceed an arbitrary \$7.00 cap. But the Coalition's proposal would give no assurance that the residential customers who would benefit from this subsidy have low incomes or even that they are located in high-cost areas (defined based on forward-looking costs). The Commission should consider whether a higher (or no) SLC cap, combined with expanded support for low-income customers, might better serve the public interest.

At the same time, the burden of this new subsidy fund would fall on the vast majority of consumers of all telecommunications services, including low-income customers and those living in high-cost and rural areas. Moreover, the proposal would significantly increase the universal service contributions required from consumers of wireless and other carriers. CMRS carriers have neither received nor paid access charges in the past, so unlike ILECs and long-distance carriers, they do not have an access charge "offset" to their contributions. As the Commission recently made clear,

Because increased federal support would result in increased contributions and could increase rates for some consumers, we are hesitant to mandate large increases in explicit federal support . . . in the absence of clear evidence that such increases are necessary either to preserve universal service, or to protect affordable and

reasonably comparable rates, consistent with the development of efficient competition. 11/

In sum, Western Wireless submits that any explicit interstate support that may be needed should be based on forward-looking costs, *not* existing ILEC revenues as in the CALLS plan, and should be kept to the minimum amount necessary. The CALLS proposal to make this new fund portable, however, would definitely serve the public interest.

CONCLUSION

While the CALLS proposal contains several features that are less than ideal – such as revenue neutrality for the ILECs and the use of embedded rather than forward-looking costs to set support levels – the plan would do much to advance the core goals of universal service and access charge reform. Specifically, it would make a significant portion of the implicit subsidies in the current access charge regime explicit and fully portable to all carriers. It also reduces the subsidization of local service by long distance customers, as well as the subsidization of rural and high-cost residential lines by urban and business customers. And it ties the price of telecommunications more closely to the costs of providing service. Western Wireless therefore generally supports the CALLS

11/ *Federal-State Joint Board on Universal Service*, CC Docket Nos. 96-45 and 96-262, Seventh Report and Order and Thirteen Report and Order in CC Docket No. 96-45, and Fourth Report and Order in CC Docket No. 96-262 and Further Notice of Proposed Rulemaking, 14 FCC Rcd 8078, ¶ 69 (1999).

proposal and encourages the Commission to use it as a platform for expeditiously completing universal service and access charge reform.

Respectfully submitted,

**WESTERN WIRELESS
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